

**BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA**

IN THE MATTER OF:

RECODIFICATION OF ORV AND)	Administrative Cause No. 10-001T
SNOWMOBILE RULES)	(LSA Document #10-51)

RECOMMENDATION FOR FINAL ACTION ON READOPTION OF RULE

A. INTRODUCTION

For consideration is the final adoption of recodification of the rules at 312 IAC 6.5 which assists with the registration of off-road vehicles (ORVs) and snowmobiles through IC 14-16-1. Where the rules are readopted in their current form without amendments, the Director of the Division of Hearings is authorized by the Commission to approve preliminary action. The Commission retained authority to take final action on recodifications.

The rules codified under 312 IAC 6.5 are proposed for readoption without amendment. The Director of the Division of Hearings approved preliminary adoption on January 4, 2010. The standard practice is to readopt rules by article, and 312 IAC 6.5 is now submitted for consideration as to final adoption.

B. READOPTION ANALYSIS REQUIRED UNDER IC 4-22-2.5-3.1

Most standards applicable to the registration of ORVs and snowmobiles are set forth by statute at IC 14-16-1 rather than by rule at 312 IAC 6.5. In a few limited instances, 312 IAC 6.5 provides specificity not included in the statute.

The continued need for the rule

312 IAC 6.5 assists with the registration of off-road vehicles and snowmobiles as required by IC 14-16-1. The rule provides specificity regarding application for and issuance of interim certificates of registration, specificity regarding the use of decals, augments the statutory fee schedule, and affirms the opportunity for administrative review. A continued need exists for the rule.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

312 IAC 6-5-1-3(b) provides that a person may apply on-line with the assistance of a dealer or in person at the DNR's Division of Accounting for an interim certificate of registration. Many dealers and purchasers have requested the additional flexibility of making an application at physical locations outside Indianapolis. DNR is currently exploring the feasibility of establishing remote application sites at regional offices of the Bureau of Motor Vehicles or at DNR properties. Although challenges remain, the DNR is aggressively seeking to make one of these or a similar option a reality. When the logistics are favorably addressed, the DNR would seek a rule change from the Commission to authorize an additional site or sites where applications may be made in person.

The complexity of the rule, including any difficulties encountered by:

- (A) the agency in administering the rule; or**
- (B) small businesses in complying with the rule**

The rule is not inordinately complex and has been effectively administered by the DNR.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

The rule has not been demonstrated to overlap, duplicate, or conflict with other statutes, rules, regulations, or ordinances.

The length of time since the rule was last reviewed under the section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

312 IAC 6.5-1-5 pertaining to fees was amended in 2008. As previously described, the rule is under current DNR evaluation in an effort to provide greater flexibility to persons seeking an interim certificate of registration. The technology exists to accomplish this goal, but the agency must also factor present economic conditions. In other respects, the rule is believed to adequately serve its intended purposes.

C. NOTICE OF INTENT AND RECOMMENDATION FOR FINAL ACTION

On February 3, 2010, a "Notice of Intent to Readopt" 312 IAC 6.5 was posted to the *Indiana Register* at 20100203-IR-312100051RNA as anticipated by IC 4-22-2.5-2 and IC 4-22-2.5-4. The notice indicated the intention to readopt the entirety of 312 IAC 6.5 without changes. The notice also provided that a person had 30 days to submit a written request to the Commission, through the Small Business Regulatory Coordinator, seeking to have a particular section of the rule readopted separately. If such a request had been

made, the Commission would have been required to complete the full rule adoption process for the section request to be readopted separately.

In this instance, no written request has been received. The Commission may either submit the rule for filing with the Publisher under IC 4-22-2-35 or elect the procedure for readoption under IC 4-22-2. The recommendation is for the Commission to approve for readoption 312 IAC 6.5, without amendment as attached in Exhibit "A", for subsequent filing with the Publisher.

Dated: March 10, 2010

Stephen L. Lucas
Hearing Officer

Exhibit “A”

ARTICLE 6.5. OFF-ROAD VEHICLES AND SNOWMOBILES

Rule 1. Registration

312 IAC 6.5-1-1 Purpose

Authority: IC 14-10-2-4; IC 14-16-1

Affected: IC 14-16-1

Sec. 1. The purpose of this rule is to assist with the registration of an off-road vehicle or snowmobile under IC 14-16-1. (*Natural Resources Commission; 312 IAC 6.5-1-1; filed Aug 31, 2004, 2:30 p.m.: 28 IR 15*)

312 IAC 6.5-1-2 Definitions

Authority: IC 14-10-2-4; IC 14-16-1

Affected: IC 14-8

Sec. 2. In addition to the definitions in IC 14-8, IC 14-16-1, and 312 IAC 1, the following definitions apply throughout this rule:

(1) “Dealer registration” means a certificate of registration issued under IC 14-16-1-16 to a dealer or a manufacturer.

(2) “Decal” means a sticker or similar document to identify a vehicle's registration number under IC 14-16-1-9 and IC 14-16-1-11.5.

(3) “Interim certificate of registration” means a written instrument sufficient to support an intent to renew or register an offroad vehicle or a snowmobile. (*Natural Resources Commission; 312 IAC 6.5-1-2; filed Aug 31, 2004, 2:30 p.m.: 28 IR 16*)

312 IAC 6.5-1-3 Interim certificate of registration

Authority: IC 14-10-2-4; IC 14-16-1

Affected: IC 14-16-1

Sec. 3. (a) Upon the purchase of a vehicle or the renewal of a vehicle previously registered, an operator must apply to the department for an interim certificate of registration. The application may be made on-line with the assistance of a dealer or in person at the division's offices in Indianapolis. The application must include the following information:

(1) Name.

(2) Address.

(3) Date of purchase of a vehicle or date of expiration of a registration for a vehicle registered previously.

(4) Year.

(5) Make.

(6) Model.

(7) Vehicle identification number.

(b) An interim certificate of registration shall be issued on a form approved by the division. The interim certificate of registration expires:

(1) thirty-one (31) days after the date of purchase; or

(2) for a vehicle registered previously, thirty-one (31) days after renewal of the registration. (*Natural Resources Commission; 312 IAC 6.5-1-3; filed Aug 31, 2004, 2:30 p.m.: 28 IR 16*)

312 IAC 6.5-1-4 Decals

Authority: IC 14-10-2-4; IC 14-16-1

Affected: IC 14-16-1

Sec. 4. (a) The department shall design and approve the following decals that:

- (1) Have a unique identification number for each registration.
- (2) Are differently colored than those used in the previous year.
- (3) Can be easily identified and verified by a law enforcement officer.

(b) An owner or operator must attach two (2) decals that are each clearly visible for identification, with one (1) on each side of the forward half of the vehicle. A dealer or manufacturer may display the decals on an attached but removable sign. (*Natural Resources Commission; 312 IAC 6.5-1-4; filed Aug 31, 2004, 2:30 p.m.: 28 IR 16*)

312 IAC 6.5-1-5 Fees

Authority: IC 14-10-2-4; IC 14-16-1

Affected: IC 14-16-1

Sec. 5. In addition to the fees established by IC 14-16-1, the following fees apply:

- (1) Thirty dollars (\$30) for each registration renewal requested under IC 14-16-1-11.
- (2) Six dollars (\$6) for each replacement decal requested under IC 14-16-1-11.5(b).
- (3) Fifteen dollars (\$15) for each change of address requested under IC 14-16-1-14(d).
- (4) Thirty dollars (\$30) for each transfer of ownership requested under IC 14-16-1-14(e).
- (5) Fifteen dollars (\$15) for each duplicate certificate requested under IC 14-16-1-15.

(6) Thirty dollars (\$30) for each of the first two (2) registrations requested by a manufacturer or dealer under IC 14-16-1-16(a).

(7) Thirty dollars (\$30) for each registration requested by a manufacturer or dealer under IC 14-16-1-16(a) that is subsequent to those requested under subdivision (6). (*Natural Resources Commission; 312 IAC 6.5-1-5; filed Aug 31, 2004, 2:30 p.m.: 28 IR 16; filed Mar 4, 2008, 12:27 p.m.: 20080402- IR 312070542FRA*)

312 IAC 6.5-1-6 Administrative review

Authority: IC 14-10-2-4; IC 14-16-1

Affected: IC 4-21.5

Sec. 6. An owner or operator may seek administrative review, under IC 4-21.5 and 312 IAC 3-1, of an order issued by the department under this rule. (*Natural Resources Commission; 312 IAC 6.5-1-6; filed Aug 31, 2004, 2:30 p.m.: 28 IR 16*)